

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Safari Transit c/o Elly Tuti  
351 Pleasant Street, Suite 180  
Northampton, MA 01060

**Property owner:** Holyoke Property Management  
1450 Northampton Street, Holyoke, MA 01040

**Date application filed with the Town Clerk:** March 4, 2010

**Nature of request:** For a Special Permit to modify conditions of Special Permit ZBA FY2009-00023, to expand livery service, number of vehicles and hours of operation under Section 10.33 and 3.340.31 of the Zoning Bylaw.

**Address:** 160 Old Farm Road (Map 18C, Parcel 21, PRP Zoning District)

**Legal notice:** Published on March 10, 2010 and March 17, 2010 in the Daily Hampshire Gazette and sent to abutters on March 10, 2010

**Board members:** Eric Beal, Barbara Ford, Albert Woodhull

**Submissions:**

- The ZBA application filed with the Town Clerk on March 4, 2010;
- A revised Management Plan and a separate Operational Plan;
- A copy of ZBA FY2009-00023 with approved floor plan, site plan and Management Plan;
- A copy of the Select Board Rules & Regulations for Taxi Businesses;
- A copy of an email from Police Chief Livingstone, dated March 18, 2010, submitted by staff.

**Site Visit:** March 22, 2010

Barbara Ford and Albert Woodhull met at the site. Eric Beal viewed the site previously. The Board members observed the following:

- The existing one-story building, containing approximately six (6) commercial tenant spaces currently occupied by Shaolin Kung Fu and Comcast;
- The existing office space, Suite C, containing a single office space associated with Safari Transit and a connected office space used by the applicants other non-profit business (Andanje Foundation). No signs for the business was observed;
- The existing location of five (5) designated parking spaces at the rear of the building.

**Public Hearing:** March 25, 2010

Mr. Tuti presented the application.

He stated the following:

- He is the owner of Safari Transit and is requesting modification of three (3) conditions of the previous Special Permit, ZBA FY2009-00023, as follows:
  - Condition 2 - to extend the hours of operation from 7:00 a.m. to 7:00 p.m. to 24 hours a day;
  - Condition 4 - to expand the number of vehicles associated with the use from 5 to a maximum of 10 vehicles.
  - Condition 1 - to revise the Management Plan and change from only contractual work with Mass Health to offering airport shuttles and other point to point services to the general public.
- He has been informed that the Police Department will begin to implement the required vehicle and record inspections in accordance with the rules and regulations of the Select Board.
- He is requesting that the Board allow him to maintain the existing five (5) parking spaces on the property. The applicant contends that the five (5) parking spaces are adequate for the use, as required in the Zoning Bylaw [Section 7.005]. He noted that the Police Department is agreeable to arranging for the inspection of five (5) vehicles at a time.

The Board members confirmed the following:

- Five (5) parking spaces are adequate for the use, in accordance with Section 7.005 which requires “adequate parking spaces to accommodate under normal conditions the cars of occupants, employees, members, customers, clients, and visitors to the premises”.
- The dispatching of vehicles does not occur from the site, but that the office will be utilized for the keeping of records and that parking will be utilized during required vehicle inspections.
- The number of total employees associated with the use will increase to match the number of drivers, including several additional drivers on “stand-by”.
- Under normal conditions, one vehicle associated with the office operation will be on-site.

Mr. Woodhull MOVED to close the evidentiary portion of the public hearing. Ms. Ford seconded the motion and the Board VOTED unanimously to close the public hearing.

### **Public Meeting:**

#### **Specific Findings:**

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with existing uses and other uses in the district. The permitted use, including the office use and associated vehicle parking spaces complies with the intent of the PRP District. There are no immediately abutting residences or other uses that would be affected. The office space is existing and the livery service will not be conducting pick-ups or drop-offs of patrons on-site. Since the issuance of the previous Special Permit, the Zoning Bylaw was amended to include a use category for taxi services, which requires a Special Permit in the PRP District. The proposal will not result in a substantial change to the existing operation; therefore it remains suitably located in the neighborhood and remains compatible with other uses in the District.

10.382, 10.383 and 10.385 – The proposal will not constitute a nuisance due to air pollution, lights or visually offensive structures; will not be a substantial inconvenience or hazard to abutters; and reasonably protects adjoining premises. The proposal will not result in a substantial change to the existing operation.

There are no changes to the exterior of the existing building nor will any expansion of the parking area be needed as part of this Special Permit. The use will not constitute nuisances such as air pollution, lights or visually offensive structures because the existing building is not being altered, no change in lighting and the number of vehicles involved is limited. There are no immediately abutting residences or other uses that would be affected by operation of this livery service. The property is located in the PRP Zoning District and contains adequate parking facilities and vehicle access.

10.384 and 10.387 - Adequate and appropriate facilities will be provided for the proper operation of the use and will provide convenient and safe movement. The applicant has submitted a revised Management Plan and Operation Plan for the operation of the taxi/livery service including a maximum of ten (10) vehicles and hours of operation 24 hours a day and seven (7) days a week. The existing building contains adequate office space for the taxi service business to operate day to day, including for the storage of records in accordance with the rules and regulations of the Select Board. The existing parking lot contains adequate parking spaces for up to five (5) vehicles to be inspected by the Police Department in accordance with the rules and regulations of the Select Board. The Board also finds that the Police Department has agreed to inspect five (5) vehicles at a time, by appointment. The permit requires that all vehicle maintenance occur off-site and there will not be any pick-ups or drop-offs of patrons on-site.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The applicant did not propose any sign as part of this proposal. The five (5) parking spaces are adequate, as required under Section 7.005 of the Zoning Bylaw for the use. Specifically, the Police Department has agreed that the parking spaces are adequate to conduct the required inspections in accordance with the rules and regulations of the Select Board. According to the Management Plan, the livery vehicles will not be stored on the premises. The Board also finds that should the applicant choose to, he may be allowed to park up to five (5) vehicles on the premises overnight.

10.388 - The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use. There will be no unloading of goods or products as a result of this Special Permit. The permit requires that all vehicle maintenance occur off-site and there will not be any pick-ups or drop-offs of patrons on-site.

10.398 - The proposal is in harmony with the general purpose and intent of the Zoning Bylaw and promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. The proposal does not include any changes to the exterior of the existing building, parking area or lighting. The property contains adequate parking spaces for the Police Department to conduct required vehicle inspections of up to five (5) vehicles associated-with the permitted use. The permitted use will provide a service to members of the public.

### **Public Meeting – Zoning Board Decision**

Mr. Woodhull moved to APPROVE the application with conditions. Ms. Ford seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2010-00010, to modify ZBA FY2009-00023 to increase the number of vehicles and hours of operation of Safari Transit, a livery service, under Section 10.33 and 3.340.31 Zoning Bylaw, as applied for Elly Tuti, at 160 Old Farm Road (Map 18C, Parcel 21, PRP Zone), with conditions.

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ERIC BEAL

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BARBARA FORD

\_\_\_\_\_  
ALBERT WOODHULL

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2010 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.  
TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2010.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2010  
to the attached list of addresses by \_\_\_\_\_, for the Board.  
NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2010,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2010-00010, to modify ZBA FY2009-00023 to increase the number of vehicles and hours of operation of Safari Transit, a livery service, under Section 10.33 and 3.340.31 Zoning Bylaw, as applied for Elly Tuti, at 160 Old Farm Road (Map 18C, Parcel 21, PRP Zoning District), with the following conditions:

1. The business shall operate in accordance with the Management Plan and Operational Plan approved by the Zoning Board of Appeals on March 25, 2010;
2. The hours of operation of the vehicles may be 24 hours per day, seven (7) days a week;
3. There shall be no maintenance of vehicles on the premises;
4. There shall be no more than ten (10) vehicles associated with this permit. Five (5) parking spaces shall be available on the premises for the required inspections by the Police Department;
5. The vehicles shall be parked in the locations shown on the site plan approved by the Zoning Board of Appeals on March 25, 2010;
6. The office shall be in the location as shown on the floor plan approved by the Zoning Board of Appeals on March 25, 2010;
7. There shall be a maximum of 15 employees associated with this use;
8. There shall be no pick-ups or drop-offs of patrons on-site;
9. This permit shall expire upon change of ownership of the business.

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ERIC BEAL, acting Chair  
Amherst Zoning Board of Appeals

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DATE